

38,

1 **WRITTEN DECISION NOT FOR PUBLICATION**

2

3

4

5

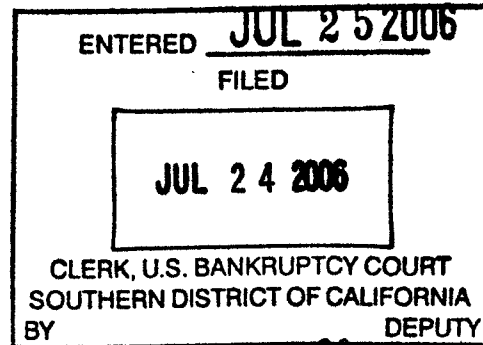
6

7

8

9

10



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re ) Case No. 05-05926-PBINV  
)  
FRANCIS J. LOPEZ, ) ORDER ON SUGGESTION  
) OF MOOTNESS  
Alleged Debtor. )

On September 30, 2005, Alan Stanly commenced this case by filing an involuntary petition against alleged debtor, Francis Lopez. At some later date Northwest Florida Daily News joined in the petition. Lopez challenged the petition on the ground three petitioning creditors were necessary under Bankruptcy Code § 303(b)(1), as Lopez had 12 or more creditors. On June 26, 2006, the Court held a hearing on the parties' cross-motions for summary judgment on the issue of the number of holders of claims against Lopez for the purposes of § 303(b). The Court requested additional briefing and took the matter under submission.

On July 20, 2006, before the Court ruled on the motions, Richard Kipperman, who asserts a claim against Lopez in the

1 amount of \$30,968.57, filed a joinder in the involuntary  
2 petition. On the same date Stanly filed a "Suggestion of  
3 Mootness" contending:

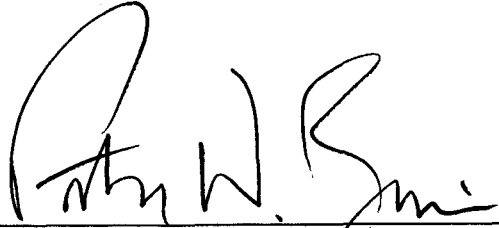
4 the issues pending before this Court in "Petition  
5 Creditors' Motion for Summary Judgment (Bifurcated  
6 Phase-1)" and the alleged-debtor's related cross-motion  
7 (the "Motions") regarding whether there are a  
8 sufficient number of creditors to support an  
9 involuntary petition under 11 U.S.C. § 303 [sic] is now  
10 moot as a result of "Richard Kipperman's joinder with  
11 Mr. Stanly and Northwest Florida Daily News, there are  
12 now three creditors, satisfying the requirements for  
13 the filing of an involuntary bankruptcy petition  
14 regardless of the number of creditors included in the  
15 "Section 303" count.

16 Both the Suggestion of Mootness and Kipperman's Joinder were  
17 served on Lopez on July 21 , 2006. Lopez has made no official  
18 response.

19 The Court directs that Lopez file a response to the  
20 Suggestion of Mootness, if any he has, no later than July 28,  
21 2006. The Court will review such response, if any, and issue an  
22 appropriate ruling.

23 IT IS SO ORDERED.

24 DATED: JUL 24 2006

25   
26 PETER W. BOWIE, Chief Judge  
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

In re Case No. 05-05926-PBINV

**CERTIFICATE OF MAILING**

The undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to wit:

was enclosed in a sealed envelope bearing the lawful frank of the Bankruptcy Judges and mailed to each of the parties at their respective address listed below:


Attorney for Alleged Debtor:

M. Jonathan Hayes, Esq.  
21800 Oxnard Street, Ste. 840  
Woodland Hills, CA 91367

Attorney for Petitioning  
Creditor:

L. Scott Keehn, Esq.  
530 B Street, Suite 2400  
San Diego, CA 92101

Said envelope(s) containing such document were deposited by me in a regular United States mail box in the City of San Diego, in said district on July 24, 2006.

  
Barbara J. Kelly, Judicial Assistant